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Supreme Court of the United States

OCTOBER TERM, 1937.

No. 129.

GUY T. HELVERING, COMMISSIONER OF INTERNAL REVENUE, PETITIONER,

VS.

WILLIAM H. TUNNICLIFFE.

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT.

BRIEF OF RESPONDENT.

H. M. VOORHIS,
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Attorney for Respondent.

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BRIEF OF RESPONDENT.

QUESTION PRESENTED.

Is the Compensation Received by the Respondent As Liquidator of Certain Florida State Banks, and Paid from Funds in the State Treasury Realized from Liquidating the Assets of Said Banks, Subject to Federal Taxation?

STATUTES AND REGULATIONS INVOLVED.

The relevant statutes and regulations will be found in the appendix of the respondent's brief in the case of *Guy T. Helvering, Commissioner of Internal Revenue,* v. *John H. Therrell, Also Known As J. H. Therrell, No.* 128, filed with the court simultaneously herewith.

STATEMENT OF THE CASE.

We believe that the statement as set forth in the brief for the petitioner is substantially correct.

SUMMARY OF ARGUMENT.

I. Respondent was an officer or employee of the State of Florida.

II. The respondent was engaged in an essential governmental function.

III. The source of the compensation of respondent is immaterial.

IV. Article 643 of Treasury Regulations 74 and Article 643 of Treasury Regulations 77 show administrative recognition of the respondent's contention.

ARGUMENT.

This case presents substantially the same question as presented in *Guy T. Helvering, Commissioner of Internal Revenue,* v. *John H. Therrell, Also Known As J. H. Therrell,* pending on writ of certiorari, No. 128, present term. Therefore the respondent adopts and incorporates

herein by reference the argument made on behalf of the respondent in No. 128.

CONCLUSION.

The decision of the United States Circuit Court of Appeals should be affirmed.

Respectfully submitted,

H. M. VOORHIS,
Attorney for Respondent.

December, 1937.